

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A FORMAL REVIEW OF THE CURRENT STATUS)
OF TRIMBLE COUNTY UNIT NO. 1) CASE NO. 9934

O R D E R

On July 21, 1988, Louisville Gas and Electric Company ("LG&E") filed a Petition for Modification or Rehearing of the Commission's July 1, 1988 Order in this case. LG&E raises two points for Commission consideration. The first point LG&E raises is that a disallowance, as referred to in the Commission's July 1, 1988 Order, with no evidence of imprudency is confiscation of LG&E's property and LG&E contends that this is an error of constitutional dimensions. The second point raised by LG&E is that if the July 1, 1988 Order in this case and the July 19, 1988 Order in Case No. 10320, An Investigation of Electric Rates of Louisville Gas and Electric Company to Implement a 25 Percent Disallowance of Trimble County Unit No. 1, are modified to delete any reference to disallowance, and if the Orders state that any reduction in revenue requirement is for a limited period of time, then the Commission will have more options available for its consideration in Case No. 10320.

On August 3, 1988, the Kentucky Industrial Utility Customers ("KIUC") filed a Response to LG&E's Petition. In its Response, KIUC states that since LG&E itself proposed in its Capacity

Expansion Study-1987 the possibility of selling 25 percent of Trimble County, that LG&E is estopped from denying the validity of the disallowance remedy imposed by the Commission.

On August 4, 1988, the Attorney General, through his Utility and Rate Intervention Division ("AG"), filed a Response to LG&E's Petition. In its Response, the AG disagreed with LG&E's position that a disallowance must be based upon a finding of imprudence. The AG points out that the Commission's July 1, 1988 Order does not confiscate LG&E's property, since the 25 percent of Trimble County not recoverable from retail ratepayers is still available to LG&E's shareholders. The AG concludes that the Commission's decision as stated in its July 1, 1988 Order is sound and based on evidence in the record and should not be modified.

On August 1, 1988, Save the Valley, Inc. ("STV"), which is one of the members of the Consumer Advocacy Groups, filed a Motion for Additional Time to File Petition for Modification or Rehearing. STV requested a 60-day extension because it had changed its legal counsel. On August 3, 1988, LG&E filed its Objection to Motion of Save the Valley. LG&E objected because the final date for filing a request for rehearing as established by KRS 278.400 had passed.

On August 3, 1988, STV filed a Motion for Additional Time to Respond to LG&E's Petition for Modification or Rehearing. STV requested an extension of 20 days. On August 5, 1988, LG&E filed an Objection to STV's Motion. LG&E points out that according to KRS 278.400 the Commission has 20 days from the filing of LG&E's

Motion to respond, and, if a 20-day extension was provided to STV, then the Commission could not meet its statutory deadline.

Based upon a review of the motions and responses, and being advised, the Commission FINDS that LG&E's July 21, 1988 Petition for Rehearing should be granted to the extent that the Commission wants to hear further arguments from the parties, including LG&E, regarding the two issues raised in LG&E's Petition. In order to accomplish this, the Commission requests that the interested parties should file within 20 days from the date of this Order written briefs on the two issues raised by LG&E in its Petition. It is the Commission's present intent to make its decisions regarding these issues based on its review and consideration of these briefs.

Further, the Commission FINDS that STV's August 1, 1988 Motion for Additional Time to File Petition for Modification or Rehearing and STV's August 3, 1988 Motion for Additional Time to Respond to LG&E's Petition for Modification or Rehearing should be denied. KRS 278.400 establishes a 20-day time limit for filing petitions for rehearing and for Commission action on the petitions. The Commission has no authority to modify these statutory time limits. As a party to this proceeding, STV will be entitled to file a written brief on the two issues raised in LG&E's Petition.

IT IS THEREFORE ORDERED that:

1. LG&E's Petition for Rehearing be and it hereby is granted to the extent that all parties, including LG&E and STV, shall have 20 days from the date of this Order to file written

briefs on the two issues raised by LG&E in its July 21, 1988 Petition.


2. STV's August 1, 1988 Motion for a 60-day extension to file a petition for modification or rehearing be and it hereby is denied.

3. STV's August 3, 1988 Motion for a 20-day extension to respond to LG&E's Petition be and it hereby is denied.

Done at Frankfort, Kentucky, this 10th day of August, 1988.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director